

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Settlement Agreement)
between the Public Utilities Commission of) Case No. 08-553-TR-CVF
Ohio and Christopher Cartage, LLC.)
)

FINDING AND ORDER

The Commission finds:

- (1) Sections 4919.79 and 4921.04, Revised Code, authorize the Commission to adopt safety rules applicable to interstate and intrastate highway transportation and the offering for transportation of hazardous materials. Pursuant to this authority, the Commission adopted in Rule 4901:2-5-02, Ohio Administrative Code (O.A.C.), the provisions of the Federal Motor Carrier Safety Regulations and Hazardous Material Regulations of the U.S. Department of Transportation contained in Title 49, Parts 40, 382, 383, 385, 387, 390 through 397, and Parts 171 through 180, Code of Federal Regulations (CFR). Sections 4905.83, 4919.99 and 4921.99, Revised Code, authorize the Commission to assess forfeitures against any person who violates these rules. Pursuant to this authority, the Commission adopted the civil forfeiture and compliance proceeding rules contained in Rules 4901:2-7-01 through 4901:2-7-22, O.A.C. This action is brought pursuant to those rules and regulations.
- (2) On January 3, 2007, Staff conducted a compliance review of a facility operated by Christopher Cartage, LLC, (Christopher Cartage, Respondent) located at Randolph, Ohio.
- (3) During the compliance review, Staff discovered apparent violations of the CFR, including:

49 CFR §382.303(a)	No post-accident testing for each surviving driver.	\$400.00
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49 CFR §382.305(b)(1)	Failing to conduct random controlled substance testing at an annual rate of the average number of driver positions.	\$400.00
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| 49 CFR §382.305(b)(2) | Failure to conduct random alcohol testing at an annual rate of not less than the average number of driver positions. | \$400.00 |
| 49 CFR §390.15(b)(2) | Inquiries into driving record not kept in qualification file. | \$500.00 |
| 49 CFR §390.15(b)(2) | Inquiries into driving record not kept in qualification file. | \$400.00 |
| 49 CFR §391.23(a)(2) | Failing to investigate driver's previous employment record and/or safety performance history. | \$500.00 |
- (4) Respondent requested a conference pursuant to Rule 4901:2-7-10, O.A.C. The matter was discussed and the Respondent had a full opportunity to present any evidence that the violations did not occur as alleged, mitigating circumstances regarding the amount of the forfeiture and any other information relevant to the action proposed to be taken by Staff.
- (5) As a result of this conference, Staff and Respondent entered into a settlement agreement to resolve these inspections. Among the terms of the settlement agreement, the Respondent agreed to make payment of a civil forfeiture of \$1350.00 within 30 days after the effective date of this settlement agreement.
- (6) Respondent further agrees to grant consensual access to the Staff to conduct compliance reviews, without notice, of all its facilities located in the state of Ohio, at any time during the period of one year from the effective date of this settlement agreement.
- (7) In the event that the Respondent fails to fulfill its obligation under the settlement agreement, or in the event that compliance reviews of the facilities or roadside inspections of vehicles operated by Respondent, conducted during the period of one year following the effective date of the settlement agreement, reveals a pattern of violations of the Hazardous Materials Regulations contained in 49 CFR Parts 171 through 180, or the Federal Motor Carrier Safety Rules, 49 CFR Parts 382, 383,

387, 390 through 397, by Respondent, the Respondent agrees to make payment of an additional civil forfeiture of \$1350.00.

- (8) Respondent agreed that the findings of violations enumerated above will be included in the Respondent's Safety-Net record and in Respondent's history of violations insofar as they may be relevant for purposes of determining future penalties.
- (9) Rule 4901:2-7-11(C), O.A.C., provides that settlement agreements providing for the payment of civil forfeitures of one thousand dollars or more for any violation shall not be effective until approved by and made the order of the Commission.
- (10) The settlement agreement entered into between Staff and Respondent represents an equitable settlement of the matter and should be approved and adopted by the Commission.

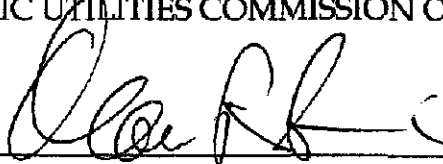
It is, therefore,

ORDERED, That the terms and conditions of the settlement agreement entered into between Staff and Christopher Cartage be approved and adopted by the Commission by this Finding and Order. It is, further,

ORDERED, That Christopher Cartage pay a total civil forfeiture of \$1350.00, within 30 days after the effective date of this Finding and Order. Payment should be made payable to "Treasurer, State of Ohio" and mailed to the PUCO, Attention Fiscal Division, 13th Floor, 180 East Broad Street, Columbus, Ohio 43215. In order to assure proper credit, Christopher Cartage, is directed to write the case number on the face of the check. It is, further,

ORDERED, That the Commission's Docketing Division serve a copy of this Finding and Order on Christopher Cartage, LLC.

THE PUBLIC UTILITIES COMMISSION OF OHIO



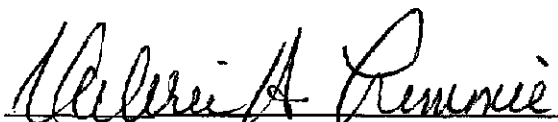
Alan R. Schriber, Chairman



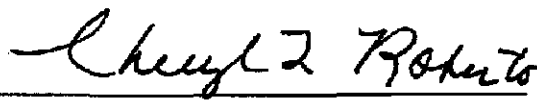
Paul A. Centolella



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Cheryl L. Roberto

REM:js

Entered in the Journal

MAY 14 2008



Renee J. Jenkins
Secretary